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ABSTRACT

An alternative to the traditional land reform movement in the United States and the recent land use reform movement would result in a merging of social control with local control over land. Traditional land reformers perceive that land is a private commodity subject to fee-simple ownership and near absolute control over its use and disposition. However, land use reformers seek through law to separate ownership from control in the name of broadly conceived public interests. Land use planners contend that the present urban-industrialized conditions require less rather than more property freedom in achieving equality and environmental quality. Through preemption of local control and greater social control of land resources, land use reformers seek an end to the monopoly prerogatives of private ownership. However, this transfer of control merely supplants the natural monopoly of private ownership with a public monopoly. An alternative is local public control, such as land banks and trusts wherein communities acquire property rights in accordance with locally determined land uses. This model satisfies traditionalists in that it precludes neither private property nor traditional land use controls. Land use reformers are satisfied because the individual property owner is no longer the supreme decision maker in land use matters. Finally, because information on land ownership is more accessible locally, local planners have an advantage in staying abreast of and knowing the reliability of their data. (Author/KC)

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TOWARD REFORM IN LAND REFORM: COUPLING LOCAL CONTROL AND SOCIAL CONTROL

By Charles C. Geisler*

Approximately two centuries have elapsed between the publication of Thomas Paine's Agrarian Justice and Secretary of the Interior Cecil Andrus' initiative to redress the unequal distribution of reclamation lands in the western states.[1] Both efforts constitute land reforms. Both are distinguished by an emphasis on land ownership and its equitable redistribution. The present study proposes an alternative approach to land reform. The logic of this reform rests on the redistribution of property control as opposed to ownership, and, it will be argued, on the decentralized public control of land resources.

This alternative view of land reform grows from the author's interest in reconciling the traditional land reform movement in this country and what has more recently come to be known as the land use reform movement (Popper, 1979).[2] The minor variation in these labels obscures an important conceptual divergence in their basic doctrines. In the latter case, rights of use rather than rights of ownership are of chief concern. These use rights have gradually shifted from private to public sector as planning and land use control legislation have pervaded the country. This shift has come to be known as the "quiet revolution in land use control" (Bosselman and Callies, 1971) and implies not only more public control over private property but more centralized public control. In other words, social control by higher levels of government is replacing control by local jurisdictions and the property owners therein (Clawson, 1975).

By contrast, traditional land reform[3] tends to preserve what land use

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planning reform would ultimately abolish. In the United States, most land reformers have taken for granted that land is a private commodity subject to fee-simple ownership and near absolute control of it use and disposition.[4] Land use planning reformers seek through law to separate ownership from control in the name of a broadly conceived "public interest" (e.g., environmental amenities, desegregating exclusive neighborhoods, more rational planning, etc.). Land reformers have traditionally striven for a land system that would perpetuate individual freedom and equality (Parsons, 1956); land use planners contend that in the urban-industrialized conditions of the present, equality and environmental quality require less rather than more property freedoms (Caldwell, 1974).

The paramount concern of this paper, then, is to arrive at an alternative conceptualization of land reform which takes into account the trend of separation between ownership and control and at the same time respects the time-honored and legally sanctioned tradition of local control. I begin with a historical summary of land reform initiatives in the United States in order to provide context for the issue under discussion. I then critique the "public utility" model of land management proffered by leading land use planning reformers. This in turn necessitates a discussion of monopoly as it pertains to property rights. I conclude by proposing a locally-controlled variant of the public utility model, that is, a merging of social control with local control over land.

Past Efforts in U.S. Land Reform

Land reform, to the surprise of many, is a perennial theme in rural America's political economy. The Independence Movement carried in its genes strong impulses to terminate colonial manorial systems. Feudalistic quitrents, socage and other institutions

protecting large estates were repealed (Bennett, 1956) or met with armed rebellion (Kazis, 1977). One year after Independence, the Continental Congress confiscated Tory estates. Ten years later, it banned entail and primogeniture in the Northwest Territories (Salter, 1943). Land reform in the young United States found its rationale for private ownership among French encyclopedists and physiocrats as well as among British and Scottish radicals like William Blackstone, John Locke, Thomas Spence, William Ogilvie and Thomas Paine (Sakolski, 1957).

Whereas in England, a fully developed agrarian society flourished prior to industrialization and succumbed to it through the Enclosure Movement, the United States' agrarian society grew in tandem with nacent capitalism throughout the nineteenth century. Abundant western lands made land engrossment possible for common people.[4] Thus, in 1800 legislation was introduced to grant land to frontiersmen; in 1841 and 1842 the Preemption Acts recognized squatters' rights on surveyed western lands; in the same decade eastern states such as New York passed laws crippling aristocratic tenure systems; and during the Civil War virtually free western lands became widely available.[5] The redistributive demands among populists in later years registered an agrarian reaction to concentrated land holdings by individual and corporate speculators (Goodwyn, 1978).

The pulse of land reform has been surprisingly regular since 1900. Congress imposed, in 1902, acreage limitations and residency requirements on the recipients of federal water rights (the forerunner of the Andrus land reform already mentioned) and expanded the Homestead

Act in 1904, 1912 and 1916.[6] In addition to multiple resettlement and farm support programs instituted during the Depression, neopopulist constitutencies have coalesced in recent years around land reform proposals (e.g., the National Coalition on Land Reform, National Land for People, and the Rural Land Alliance of Rural America), lobbying against absenteeism, careless land use practices and monopoly tenure patterns (Barnes, 1975). These reforms offer, each in its own way, a critique of land engrossment by a few at the expense of the many. Their vision, the antithesis of the monopolies they deplore, entails small-scale, decentralized, self-reliant production units owned by individuals or small collectivities based on essentially Jeffersonian ideals.

Land Use Planning Reform

The vision shared by land use planning reformers is radically different from the reform vision just discussed. It emerges from the common law doctrine of nuisance (Cribbet, 1965) and subscribes fundamentally to the notion that when one property owner's actions jeopardize the use or value of adjoining properties, an authority above either interest must intervene to protect the public interest. Such intervention assumes two basic forms. One is eminent domain and was particularly useful during the nineteenth century when land was relatively cheap (Horwitz, 1977). The other is regulation without compensation under either the commerce clause of the Constitution or the police powers delegated to the states through the Tenth Amendment.[7] Though ownership does not change hands, land uses are proscribed at very little cost to the governing body--a virtual necessity in an era of fiscal crisis.

The rootstock of the land use planning reform stretches back to the early years of the present century (Clawson, 1973). Its centerpiece, zoning, was found constitutional in the 1920s by an eminently conservative Supreme Court and implemented in almost all metropolitan areas in the country by the 1940s. Since its earliest inception, zoning was a weapon for defending community status quo and local class interests (Linowes and Allensworth, 1973). But so too did zoning, decentralized and locally controlled as it was, serve a planning and resource allocation function in the later phases of competitive capitalism (Geisler, 1979). Local growth control and planning grew cumbersome, however, as the organization of the economy changed.[3] Capital concentrated and centralized, outgrowing municipal boundaries. New planning techniques were therefore needed to replace the antiquated, decentralized approach to growth management. The quiet revolution has permitted the gradual "recapture" by higher, more centralized governmental agencies of the police power authorities formerly granted to local jurisdictions (Green, 1974; Finnell, 1978).

A basic impediment to the quiet revolution is what has come to be known as the "taking issue"--that is, the legal claim by property owners that incremental regulation ultimately confiscates their constitutionally protected property rights.[9] Indeed, circumventing the

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taking issue may be the chief source of policy inventiveness among land use reformers (e.g., Bosselman, 1965; 1975; Costonis, 1976). Ultimately, the legality of regulation which shifts property rights to the public domain hinges formally on the "public interest" justification for such regulation. Thus, it is hardly surprising that land use planners and reformers have promoted new land ethics and ideologies which redefine the very nature of land itself (e.g., Reilly, 1973; Ross, 1979).

In sum, land use planning reform implies, in most instances, a gradual fission between the ownership and control of property in contrast to their continued fusion under land reform initiatives discussed above. Whereas in a land reform real property is redistributed from one private owner to another, land gradually becomes a public resource in the course of land use planning reform. Land reformers consider the public interest to be best served through refractory local control, much in contrast to the preferred social control of land use planners. Underlying these distinctive reform tendencies are markedly different definitions of monopoly in land.

Monopoly and Property

Monopoly for land reformers of the first tradition is inextricably wound up in the frequently posed question, "Who owns America?" (Agar and Tate, 1936; Faux, 1973; Popper, 1976; Meyer, 1979). Most often, the answer is big business, or the remnants of gentry (Burnham, 1978).[10] The concept of monopoly among land use planning reformers is decidedly different and only implicity aired. It begins with the notion of classical economists that private property is a natural monopoly (Bryant, 1972), entitling owners to use and dispose of their land as they choose. Large concentrations of land per se are not a chief concern among land use planners.

Their diagnosis is rather that absolute property rights undermine the welfare in complex societies. The discretionary powers accompanying such rights permit exclusionary residential patterns, aesthetic and ecological despoilation and related "tragedies of the commons". The remedy is not a redistribution of ownership, but an end to the monopoly prerogatives of private ownership. This is accomplished through preemption of local control and the greater social control of land

resources. Monopoly, as here understood, recedes as the public trust in land expands (Heyman, 1972).[11]

Ironically, serious attention has recently been generated among leading land use reformers for a public utility (i.e., public monopoly) solution for private land monopolies (Babcock, 1975; Babcock and Feurer, 1977; 1978; 1979). Here, the "natural" monopoly of fee-simple ownership is supplanted by a public monopoly abrogating all or most private rights in land. Of course such a concept is but a logical extension of what the disciples of social control and the quiet revolution in land use control advocate for the future of land management.[12] In one of several articles advocating the utility model, Richard Babcock suggests that land "had many attributes of those commodities our society has insisted be subject to licensing or public regulation as a utility." He continues: "These are commodities which, as conventional wisdom puts it, are so 'affected by the public interest' as to require special public oversight." (1976:16).

This approach, Babcock reasons, would counteract the "monopolistic consequences" of private property and current municipal zoning. While admitting the potential for over-regulation, political pressure and venality in the utility approach (Babcock was formerly counsel to a public utility), he argues that "each of these evils is doubled in spades in our [present] fractured system of land use regulation." (ibid., 18). Babcock's assurances notwithstanding, there are certain perils in encouraging the reconstitution of land as a public utility to which many land use reformers seem callous. Chief among these perils is size and the immunity to the needs of client communities and local environments which frequently accompany large utilities.

Terra Cognita: Caveat Emptor

There is, then, a basic shortcoming in the utility approach to land revolution. It has little to do with novelty (land is considered a public utility in various European countries (Widner and Pease, 1974) nor with the concept of public ownership as such. The problem is one of uncritical and perhaps indiscriminant application. Centralized utilities exhibit many of the characteristics of concentrated, monopoly industries within the private sector (Shonfield, 1970). What such organizational forms demonstrate in efficiency and profitability, they generally lack in popular involvement and democratic decision-making. As one group of researchers has observed:

> For public ownership to be successful, the utilities should serve as the building blocks for local, decentralized political and economic power in which decisions are made in communities and neighborhoods rather than in board rooms and stock exchanges. (Morgan et al., 1976:3)

In other words, public ownership does not necessarily convey public control; where public utilities are concerned, this is most likely to pertain in the case of large utilities. Public ownership is a necessary but insufficient ingredient of popular democracy insofar as the benefits of public ownership are greatly reduced as utility size increases. The Tennessee Valley Authority, which supplies electricity to people in seven southern states, is an oft-cited case in point.[13] Though hailed as a milestone in public, "grass roots" control, it is criticized for being isolated from public input (Tugwell and Banfield, 1955) and thereby for being out of touch with the interests of its consumer constituency

(Munson, 1977).[14] Vast territories within the TVA jurisdiction have been condemned for hydroelectrical impoundments, nuclear power plants, and coal extraction all in the name of national interest claims over which local people have had little say.[15]

An alternative to the centralized public utility analogy is the decentralized or municipal public utility. Perhaps the best current examples of local public control in the United States are local land banks and land trusts wherein communities of different sizes acquire property rights in accordance with locally-determined land uses.[16] Land use planning by local people is of course a heresy among the advancemen of the quite revolution (e.g., Gulick, 1958; Babcock, 1965; Mandelker, 1976; Moss, 1977) who equate local control with no control. Local public planning, in this view, is parochial in the extreme. Thus, the American Law Institute officially endorses land banking at only the state level, for instance, on the premise that local land banking will probably have exclusionary motives (Bosselman, 1975). Whereas local planning and control of land resources are often chaotic and could be greatly improved, one wonders if their disrepute has less to do with incompetence than with liberal suspicions regarding decentralist theory and practice.

Local Heresies Reconsidered

The remainder of this paper explores precedents for local public control of land resources in recent United States experience. The discussion is organized around four considerations which, while not exhaustive, illuminate standards against which the public benefit of such an approach can be measured. So too will periodic reference be made to municipally-owned utilities as a valuable analogue to the local public control in question.

The four considerations may initially be posed as questions:

1. Is there legal authority to implement a local utility model of land use planning?
2. Are there financial means to make the model's execution possible?
3. Are there relevant precedents in the American context which, with some modification, the model might emulate?
4. Is there a basis for land reformers of the two traditions outlined to accept the model?

The legal basis for a local public corporation to undertake land banking-trusting is relatively unambiguous. Perhaps the key source of problematic resides in the constitutionality of expropriations related to land assembly. The issue is in essence this: can private land placed in public "escrow" for some future objective (perhaps vaguely defined) be considered a public "use" or "purpose"? Both nationally and in the Commonwealth of Puerto Rico, Supreme Court findings essentially defer to legislative intent on this matter, suggesting strong precedents for constitutional protection of such "escrow" lands.[17]

Another paramount concern is that local governments, flirting regularly with fiscal crisis, lack the financial wherewithall to consolidate large amounts of public land, not to mention operate with reduced property revenues as a result of such takings. The prospects for "front-ending" the acquisition of land, especially where only partial rights are obtained,[18] are not at all dim. In the first place, if the local public corporation includes a land trust, land acquisition

may be free.[19] Municipal tax-exempt bonds, the chief source of capital for municipal utilities, are an appropriate source of land bank financing as well (Fishman, 1975). Grants and low interest loans are available in various states[20] and have been intermittently available from the federal government since the New Deal.[21] Where less than the fee title is acquired, the matter of property tax losses is minimized and can be offset by compensatory special purpose taxes on leasing public land for purposes consistent with a local master plan.[22]

A third question of immediate concern is whether there are precedents relevant to the American context for the local utility approach to land. Though European examples abound (Bryant, 1972), Canadian instances are perhaps more relevant given the common law heritage we share with Canada. In the city of Saskatoon, Saskatchewan, 80 percent of residential development and 95 percent of industrial development have occurred on municipally owned property (Owens, 1977), and land banking is advancing in Red Deer, Calgary and elsewhere. In the United States proper local public land ownership, while not ubiquitous, has both historical (Reps, 1973) as well as contemporary examples (McClaughry, 1975). Commenting on New England folk planning of land resources, one author characterizes the allocation of land and the conditions of use as "...the most equitable distribution of resources the country has ever known." (Warner, 1972:10-11).

But is local public control likely to satisfy land reformers, old and new? Several arguments for why this should be so suggest themselves. First, the municipal model presented precludes neither private property on the one hand nor more traditional land use controls on the

other. Indeed, it is the existence of these traditional tools which constitutes the local government's ultimate bargaining chip--i.e., the legal leverage to compel compliance if necessary. Moreover, the proposed reform is equitable. It compensates expropriated land owners, thus avoiding what the British refer to as "regulation on cheap". Finally, local public control at least partially resolves the monopoly concerns of traditional land reformers. By replacing privately owned with publically owned land, municipalized property in some sense obviates questions of absenteeism and concentrated ownership.

What are the merits of local public control for land use reformers? Probably most important, the "highest use" of land is no longer market-dictated. This is merely another way of saying that the individual property owner is no longer the supreme decision-maker in land use matters. The root cause of monopoly, from the land use reformer's standpoint, is held in check by making private rights public and by activating local planning.

True, some reformers will contend that local planning is a contradiction in terms. Recall, however, that the basis for such opinions has been local <u>private</u> planning and its commonplace abuses. Students of land banking report that local public control induces more rather than less responsibility among local leaders:

> Land ownership [by the public] could also make public officials more clearly responsible for the economic consequenses of restricting land use. By giving the public an economic stake in the future uses of its land, officials would be compelled to weigh closely the costs and benefits of restrictions on land they propose to sell or lease...

> In sum, a land bank could provide more sensitive regulation of land uses--regulation more adaptable over time and more discriminating in the particular use ultimately established at a particular site--than is possible with traditional controls. Integrated into existing planning and regulatory schemes, land banking would create a more effective total system. (Fishman, 1975: 63)

There is further reason to be sanguine about the accomplishments of local public planning based on past performance of the local utility model. Interestingly, there exist myriad municipally owned electrical utilities (some 2000) and consumer-owned electrical cooperatives (about 900) in the United States providing electricity to roughly one-fourth of the population (Morgan, 1976). Even though these entities engage regularly in social, fiscal and land use planning, not to mention involved capital improvements, seldom are they faulted for lack of planning skills or for parochialism. Indeed, they usually offer cheaper electricity than investor-owned utilities, and do so with less cost to the physical and social environment (Munson, 1977). Such costs have of course been among the typical reasons given by land use reformers in the past for centralizing land use control.

Two additional reasons remain for implementing local public control. On the one hand, local units of government are said to lack the resources for compiling integrated "geoinformation" systems required for sophisticated land use planning (e.g., parcel boundaries, title information, area geology, hydrology, biology, soil types, topography, etc.). To date this information has been centrally gathered and stored (McNaughtin, 1979). Nevertheless, important precedents are emerging for the collection of this vital planning information at the county and town levels of government.[23] On the other hand, it has been forcefully argued that land use planning without

without land ownership disclosure will prove ultimately to be futile (Popper, 1978). This suggests, if taken seriously, that land use reformers share with land reformers a fundamental concern with who owns the land.[24] Because this information is most accessible locally, local planners have a comparative advantage in staying abreast of and knowing the reliability of such data first hand.

By each of the four standards, then, local public control has a range of commendable attributes and advantages. These have been neglected and understated by those who equate social control and reform with centralized administration and authority. Quiet clearly, social control can be "recaptured" by local units of government to the probable advantage of society as a whole. Such seems to be the case for municipalized energy resources. If the local people who manage public power resources are the local people who will manage public land resources, one can only agree with land use authority John Reps in his observation: "We are not lacking in technical skill but in political will." (1973:16).

Discussion

Americans have long sustained the illusion that land reform is a problem only among developing nations. School children learn that land in America is abundant both in absolute and relative terms. The same children have until recently been taught that land reform is subversive. As the Wall Street Journal editorialized (Sept. 8, 1977) with regard to the "Andrus" land reform, such behavior was befitting Vietnam, Chile or Iran but not, by implication, the United States.

At the same time private property has been rendered a museum piece in the United States, as social control over land has accelerated in the

name of the common good and the public interest (Castle, 1978;Meyer, 1979). Ironically, social control has brought with it the socialization of private property rights, an occurrence only a few have found subversive. Perhaps the capstone of the above illusion is that private property and local control are inseparable and that, if the former is transformed, the latter will whither away.

The point of this paper has been to focus attention on the potential of local control over land resources in the absence of traditional private property institutions. But it has attempted at the same time to show that there can be no sustainable local public control without land use planning--i.e., land reform and land use reform share an elemental bond. The reverse is equally apparent; land use planning reform necessitates land reform and abatement of land monopoly historically condemned by land reformers.

To be sure, a critical assessment of local public control is in order. Hopefully, such an undertaking would strive for greater precision in the meaning of "local" without insisting that all regions of the country subscribe to the same operational definition. It would clarify the mechanisms for extra-local (regional) control and coordination as well as the settlement techniques to be employed in interlocal land use controversies. And it would reckon with the motivational bases for collective land stewardship, heretofore illusive in both early and advanced phases of our market economy.

Footnotes

1. In response to an order of the U.S. District Court for the District of Columbia (Civil Action No. 76-928, August 13, 1976) the Bureau of Reclamation published new rules covering the sale of lands in excess of the 160 acreage limitation mandated by the 1902 Reclamation Act. When the Carter Administration assumed office in 1977, Secretary of the Interior, Cecil Andrus, proposed new reclamation lands rules, hence the Andrus "land reform"(see the Wall Street Journal, Sept. 8, 1977:20). The Andrus proposal in fact made important concessions to the corporate farm owners of the west and was, at best, a compromise of stronger land reform tenets sought for over 20 years in California (for details, see National Land for People, March, 1979).

2. Among those calling explicitly for land use reform in recent years are Fessler (1972), Bosselman and Callies (1973), Peterson, 1974: and Darin-Drabkin (1977).

3. Land reform is admittedly a multidimensional concept dating back to ancient China and to the "Jubilee Years" of Israelites. It has been used to mean land consolidation and land parcellization, colonization as well as improved landlord-tenant relations (Jacoby, 1971; Dorner, 1974; Eckholm, 1979). Its overriding traditional usage, employed here, refers to redistribution of ownership and control from larger to smaller units of agrarian production.

4. For example, see Penn (1971). Land reform is integral to many social reforms in United States history. This pattern began with the liberally inclined upheaval of 1776, and continued through the antislavery moods of the 1840s and 1850s (Sakolski, 1957; Bardolph, 1970), through recurring anti-speculation campaigns (Gates, 1973), through various labor and tax reforms (especially in connection with Henry George) and, more generally, through the reform efforts of the populists (Goodwyn, 1978). Conspicuously absent from this list, with the exception of the cooperative movement, were proposals for land collectivization, whether by socialists or non-socialists (see the writings of George Tucker, for example, in Sakolski, 1957:266-67). During the Civil War, under conditions of military rule, the Union Army sought to establish communal societies for freed blacks at Davis Bend, Mississippi and, to a lesser extent, along the Atlantic Coast south of Charleston. "To the surprise of almost no one," writes Lerone Bennett, Jr. (1972), "these communal experiments were later abandoned in favor of 'free enterprise'." Lipset (1954) recounts the periodic antagonisms in the west between land reformers in the nonpartisan league and socialists, and Renshaw (1967) describes Samuel Gomper's tactical support for land reform to defeat labor initiatives for collective ownership of the means of production.

5. Some 1.6 million people acquired homesteads under the Homestead Act following its passage in 1862 (McClaughry, 1972).

6. This expansion occurred under the Kincaid Act of 1904, the Enlarged Homestead Act of 1912, and the Stock Raising Homesteading Act of 1916.

7. Article X of the U.S. Constitution holds that the "police powers", under which private property rights are regulated, are reserved to the states or their delegate agencies. This delegation process can occur in at least three distinct ways (Geisler, 1973) and provides the legal backbone for local control (regulation) of land.

8. The transformation of capital from its predominantly competitive to its predominantly monopolistic form in the twentieth century is also called the "corporate revolution", in part because it revolutionized the institution of private ownership (Berle and Means, 1932). The quiet revolution in land use control may be viewed as an extension of this corporate revolution in the domain of land ownership (Geisler, 1979).

9. Article V states unambiguously that no person shall be deprived of property without due process of law, just compensation on intended public use. For further commentary on the taking issue, see Bosselman et al. (1973).

10. For early reformist critiques of land monopolies by land reformers, Lloyd Garrison's pamphlet, "Gerrit Smith on Land Monopoly" (cited in Sakolski, 1957:180ff).

11. An excellent example of this trend is found in the reform of the Standard State Zoning Enabling Act of 1924 proposed first in the 1930s and again in the 1960s by the American law institute. Not surprisingly, proponents of the quiet revolution, such as Fred Bosselman, are among the authors of the more recent ALI draft legislation.

12. Babcock and Feurer are both partners in the Chicago law firm of Ross, Hardies, O'Keefe, Babcock & Parsons, where Bosselman, Callies and other author-advocates of the quiet revolution are likewise employed. The reservations concerning the quiet revolution which Babcock and Feurer express (1977:290) are indeed minor and suggest the need to move beyond rhetoric to be effective and policy-relevant.

13. Here "public" refers to the public domain, to which the Babock proposal refers, as opposed to a utility which offers stock to the public for sale (i.e., an investor owned utility). There are, of course, important exceptions to the generalization that large public utilities are in various ways inferior. Even the TVA may be entering a new phase of public accountability and decentralized planning under recently recruited new leadership. Nor is it invariably the case that municipally owned and operated utilities are democratic or well managed (Vennard, 1968; Neuberg, 1978).

14. Though decentralized in theory, the TVA offers little evidence of democratic planning. Repeatedly, the "grass roots" have been coopted into the development and extension agendas of the U.S. Department of Agriculture and the land grant colleges (Selznick, 1966:95-96). Decentralized power boards are appointed rather than controlled leading to political entrenchment and unaccountability (Morgan et al., 1976).

15. Between 1974 and 1983, TVA officials hope to double their electrical generating capacity by building 15 nuclear power plants (Morgan et al., 1976). This comes in the wake of severe criticism of its stripmine practices (Whisnant, 1976).

16. Land banking refers to the acquisition of property rights in land through various means by a government entity in accordance with a development plan. Increasingly, courts have tolerated such acquisition for future-but-as-yet-undefined-plans, which means conservation per se is gaining legitimacy rather than, as most believe, having development guidance as its primary objective. Alternatively, land trusts are tax exempt organizations that receive land from donors who wish to have their land legally preserved for a particular purpose (either productive or consumptive as the donor defines). Land thereafter revolves in and out of use (e.g., leased to farmers). Though such organizations have usually been private, nothing prevents a local government or a public corporation within a local jurisdiction from establishing a trust. Land banks and trusts within the same public corporation could serve complementary functions within a local land use plan.

17. The Supreme Court case in question is Berman v. Parker (1954) and the Puerto Rican counterpart, based on Berman, is Commonwealth of Puerto Rico v. Jorge I. Rosso (1962 (see Callies, 1968). For other state findings following this precedent see Fishman (1975). Wisconsin precedents of interest are referred to in Owens (1978). Another pertinent legal issue is extraterritorial powers of condemnation, less of a problem for cities (home rule or otherwise) than some commentators have believed (see Wickersham, 1977:235).

18. Local governments, for example, can minimize front-end expenditures by purchasing only the first right of refusal to develop land, options or easements which target the specific property rights desired (e.g., "positive" or "negative", "gross" or "appurtenant") (Owens, 1977).

19. There are numerous examples of land trusts in both urban and rural settings. The trust for Public Land is a San Francisco-based national organization dedicated to land trust proliferation across the country (Peirce, 1978). Some trust lands are purchased by groups devoted to this concept, others are donated for tax or ideological reasons.

20. State programs range from land trusts (e.g., the Maryland Environmental Trust or the Main Coast Heritage Trust) to state initiatives designed to help local governments. These are both general (as in Minnesota, Alaska, North Dakota or Massachusetts), where either a state bank or state level community development corporation can loan money and otherwise expedite local land acquisition. See also the Massachusetts "Self-Help" Act which permits town and city conservation commissions to purchase, lease or acquire partial control of land with up to 50 percent state compensation to the local jurisdiction. (Ch. 40, Sec. 8-C, General Laws of Massachusetts, as amended by Acts of 1961, Ch. 258, Acts of 1965, Ch. 769, and Acts of 1967, Ch. 885).

21. Federal examples of assistance for local public land assembly are referred to in Wickersham and Lopez (1977). More recently, Community Development Block Grant monies from the Department of Housing and Urban Development have been designated for such purposes (Kollias, 1978).

22. Boulder, Colorado, for example, has turned to special purpose taxation to pay for its "greenbelt". European examples (especially Swedish) offer proof that front-end expenses of land banking can be retired from leased public lands, rents and revenues. A 1966 survey indicates that one-third of U.S. cities having populations over 50,000 have some form of early site acquisition program (Owens, 1977), suggesting that many local governments could be or presently are benefiting from local public control strategies wherein public lands "pay for themselves" as well as recoup land value created at public expense.

23. Local land information systems have often begun with land title systems, to which additional information is added. They now operate in such counties as Fairfax in Virginia, Lane in Oregon, Forsyth in North Carolina, and Nashville-Davidson in Tennessee (see Wunderlich, 1978 for additional examples). In Massachusetts town and city conservation commissions have a statutory mandate to inventory basic information on all open space within their jurisdictions. This mandate has partially inspired a 1978 proposal to the U.S. Departmetn of Housing and Urban Development by the Southern Middlesex Registry of Deeds for a comprehensive land title demonstration project, an initiative previously alluded to as "a model that can be extended nationally." (See p. 32 in Land Records Commission "Program Statement", Massachusetts Department of Community Affairs, Boston (July, 1976)).

24. For details on recent legislative efforts within the U.S. to document land ownership, foreign and domestic, see Wunderlich (1978).

REFERENCES

Babcock, Richard. 1966. The Zoning Game. Madison: University of Wisconsin Press.

Babcock, Richard F. 1975. "On Land-use policy." Planning (June):12-19.

Babcock, Richard F. and Duane A. Feurer. 1977. "Land as a commodity 'affected with the public interest'." Washington Law Review 52 (November):289-334.

_____. 1978. "Lands as a commodity 'affected with the public interest':" Urban land:7-12.

_____. 1979. "Land as a Commodity 'Affected with the Public Interest'." Pp. in Richard N. Andrews (ed.) Land in America. Lexington, MA: Lexington Books.

Bardolph, Richard. 1970. The Civil Rights Record: Black Americans and the Law, 1849-1970. N.Y. Thomas Y. Crowell Co.

Barns, Peter (ed.). 1975. The People's Land. Emmaus, Pa.: Rodale Press Book Division.

Bennett, Henry G.
1956. "Land and Independence--American Experience." Pp. 38-44 in Kenneth Parsons, R. J. Penn and Philip Raup (eds.). Land Tenure. Madison: University of Wisconsin Press.

Bennett, Lerone Jr. 1972. "The making of black America." Ebony Magazine (February):

Berle, Adolph A. and Gardiner C. Means. 1932. The Modern Corporation and Private Property. New York: Commerce Clearing House.

Bosselman, Fred. 1965. The third alternative in zoning regulation. Zoning Digest 17:73-80, 113-119.

Bosselman, Fred. 1975. "Property rights in land: New statutory approaches." Natural Resources Journal 15 (October):678-693.

Bosselman, Fred, and David Callies. 1971. The Quiet Revolution in Land Use Control. Washington, D.C.: Council on Environmental Quality.

Bosselman, Fred, David Callies, and John Banta. 1973. The Taking Issue. Washington, D.C.: Council on Environmental Quality.

Bryant, R.W.G. 1972. Land, Private Property, Public Control. Montreal: Harvest House.

Burnham, Sophy. 1978. The Landed Gentry. New York: G.P. Putnam's Sons.

Burroughs, Roy J. 1966. "Should urban land be publically owned?" Land Economics 42 (February):11-20.

Caldwell, Lynton K. 1974. "Rights of ownership or rights of use? --The need for a new conceptual basis for land use policy." William and Mary Law Review 15 (Summer):759-775.

Clawson, Marion. 1975. "Economic and social conflicts in land use planning." Natural Resources Journal 15 (July):473-489.

Clawson, Marion. 1973. Modernizing Urban Land Policy. Baltimore: Johns Hopkins University Press.

Costonis, John J. 1976. "A new approach to the taking issues." Planning 41 (January):18-21.

Cribbet, John E. 1965. "Changing Concepts in the law of land use." Iowa Law Review 52:245-278.

Dorner, Peter. 1974. Land Reform and Economic Development. Baltimore: Penguin Books.

Darin-Drabkin, Haim. 1977. Land Policy and Urban Growth. New York: Pergamon Press.

Eckholm, Erik. 1979. The Dispossessed of the Earth: Land Reform and Sustainable Development. Washington, D.C.: Worldwatch Institute.

Edwards, Gordon. 1969. Land, People and Policy. Trenton, N. J.: Chandler-Davis.

Ellickson, Robert C. 1973. "Alternatives to zoning: Covenants, Nuisance rules and fines as land use controls." 40 University of Chicago Law Review 681:

Faux, Geoffrey. 1973. "Reclaiming America." Working Papers for a New Society 1 (Summer):31-42.

Fessler, Daniel W. 1972. "Casting the Courts in a Land Use Reform Effort: A Starring Role or a Supporting Part?" Pp. 176-204 in Marion Clawson (ed.), Modernizing Urban Land Policies. Baltimore: Resources for the Future Press.

Finnell, Gilbert L., Jr. 1978. "The federal regulatory role in coastal zone management." American Bar Foundation Research Journal No. 2 (Spring):168-288.

Fishman, Richard P. 1975. "Public Land Banking: Examination of a Management Technique." Pp. 61-85 in Randall W. Scott (ed.) Management and Control of Growth Vol. III, Washington, D.C.: Urban Land Institute.

Gates, Paul W. 1973. Landlords and Tenants on the Prairie Frontier. Ithaca: Cornell University Press.

Geisler, Charles C. 1979. A Sociological Interpretation of Land Use Planning in Capitalist Society. Unpublished Ph.D. Dissertation, University of Wisconsin, Madison, Wisconsin.

Goodwyn, Lawrence. 1978. The Populist Movement. New York: Oxford University Press.

Green, Philip P. Jr., 1974. "The American Law Institute Model Land Development Code." Proceedings of the Conference, Land Use Planning; Implications for Citizens and State and Local Governments (March). Columbus, Ohio: Battelle.

Gulick, Luther. 1958. "The City's Challenge to Resource Use." Pp. 115-137 in Henry Jarrett (ed.) Perspectives on Conservation. Baltimore; Johns Hopkins Press.

Heyman, Ira Michael. 1972. "Legal Assaults on Municipal Land Use Regulation." Pp. 153-174 in Marion Clawson (ed.), Modernizing Urban Land Policy. Baltimore: Resources for the Future Press.

Hill, Robert Tudor. 1910. The Public Domain and Democracy. New York AMS Press.

Horwitz, Morton J. 1977. The Transformation of American Law, 1789-1860. Cambridge: Harvard University Press.

Jacoby, Erich H. and Charlotte F. Jacoby. 1971. Man and Land. New York: Alfred A. Knopf.

Kazis, Richard. 1977. "After the revolution: Who should rule?" Self Reliance (July-August):11-12.

Kollias, Karen. 1978. "Revitalization without replacement." HUD Challenge (March):1-2.

Lanier, Lyle H. 1936. "Big Business in the Property State." Pp. 19-35 in Hebert Agar and Allen Tate (eds.). Who owns America? Boston: Houghton Mifflin.

Linowes, R. R. and Allensworth, D. T. 1973. The Politics of Land Use. New York: Praeger Publications.

Lipset, Seymor Martin. 1971. (1954) Agrarian Socialism. Berkeley: University of California Press.

Mandelker, Daniel R. (ed.). 1976. Environmental and Land Control Legislation. New York: Bobbs-Merrill Publishers.

McLaughry, John. 1972. Expanded Ownership. Fond du Lac, Wisconsin: Sabre Foundation.

McLaughlin, John Douglas. 1975. "The Nature, Function and Design Concepts of Multi-Purpose Cadasters." Unpublished Ph.D. dissertation, University of Wisconsin, Madison, Wisconsin.

Meyer, Peter. 1979. "Land rush." Harpers 48 (January):45-56.

Morgan, Richard, Tom Riesenberg, and Michael Troutman. 1976. Taking Charge: A New Look at Public Power. Washington, D.C. Environmental Action Foundation.

Moss, Elaine (ed.). 1977. Land Use Controls in the United States: A Handbook on Legal Rights of Citizens. New York: Dial Press.

Munson, Richard. 1977. "Public power: its time has come." The Progressive 41 (May):26-29.

Neuberg, Leland Gerson. 1978. "Municipal ownership of electrical utilities and the fiscal crisis of the cities." The Review of Radical Political Economics 10 (Winter):35-47

Nichols, Theodore. 1969. Ownership, Control and Ideology. London: Allen and Unwin.

Owens, David. 1978. "Alternative Growth Management Techniques (Non-Regulatory). Madison: Wisconsin Department of Administration.

Parsons, Kenneth. 1956. "Land reform and agricultural development." Pp. 3-22 in Kenneth Parsons, Raymond J. Penn and Philip Raup (eds.) Land Reform. Madison: University of Wisconsin Press.

Peirce, Neal R. 1978. "Land Trusts: putting empty lots to use." The Washington Post (August 8).

Penn, Raymond J. 1961. "Public interest in private property (land)." Land Economics 37 (May):99-104.

Peterson, Russell W. 1974. "Land Use Issues and the Quality of Life." Proceedings of the Conference "Land Use Planning: Implications for Citizens and State and Local Governments." Columbus, Ohio; Battelle.

Popper, Frank. 1976. "We've got to dig deeper into who owns our land." Planning 43 (october):17-19.

Popper, Frank J. 1978. "What's the hidden factor in land use regulation?" Urban Land 37 (December):4-6.

Popper, Frank. 1979. The Politics of Land-Use Reform. Forthcoming.

Reilly, William K. (ed.). 1973. The Use of Land: A Citizen's Policy Guide to Urban Growth. N.Y.: Thomas Y. Crowell Co.

Renshaw, Patrick. 1967. The Wobblies. Garden City: Doubleday.

Reps, John W. 1973. "Public Land, Urban Development Policy, and the American Planning Tradition." Pp. 15-38 in Marion Clawson (ed.) Modernizing Urban Land Policy. Baltimore: John Hopkins University Press.

Ross, John E. 1979. Season, Land and Man. (Forthcoming book based on Aldo Leopold Memorial Colloquium, Summer, University of Wisconsin, Madison).

Sakolski, Aaron M. 1957. Land Tenure and Land Taxation in America. New York; Robert Schalkenbach Foundation.

Salter, Leonard A. Jr. 1943. "Farm property and agricultural policy." Journal of Political Economy 51 (February):13-22.

Sandalow, Terrance. 1964. "The Limits of Municipal Power Under Home Rule: A Role for the Courts." Minnesota Law Review 48:642-672.

Selznick, Philip. 1966. TVA and the Grass Roots. New York: Harper Torchbooks.

Shonfield, Donald. 1961. Modern Capitalism. New York: Oxford Univ. Press.

Tate, Allen. 1936. "Notes on Liberty and Property." Pp. 80-93 in Herbert Agar and Allen Tate (eds.) Who Owns America? Boston: Houghton Mifflin.

Tugwell, R. G. and E. C. Banfield. 1950. "Grass roots democracy: myth or reality?" Public Administration Review 10:47-55.

Wall Street Journal. 1977. "The Andrus Land Reform." (September 8): p. 20.

Warner, Sam B. 1972. The Urban Wilderness. A History of the American City. New York: Harper and Row.

Widner, Ralph and James Pease. 1974. "Economic growth and land use planning." Pp. 107-112 in Proceedings of the Conference "Land Use Planning: Implications for Citizens and State and Local Governments." (March 26-27). Columbus: Battelle Laboratories.

Wickersham, Kirk, Jr. and Gerald E. Dahl. 1977. "A Model for Community Land Banking in the United States." Pp. 220-238 in Neal Roberts (ed.). The Government Land Developers. Toronto: Lexington Books.

Wickersham, Kirk, Jr. and Richard V. Lopez. 1977. "An Introduction to the American Experience." Pp. 191-202 in Neal A. Roberts (ed.) The Government Land Developers. Toronto: Lexington Books.

Whisnant, David E. 1976. "How green is your valley?" The Elements 24 (November):1-6.

Wunderlich, Gene. 1978. Facts About U.S. Landownership. Agricultural Information Bulletin No. 422, Economics, Statistics and Cooperatives Service, USDA, Washington, D.C.